

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS**

October 7, 1999

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, October 7, 1999, at 2:00 P.M. in the Meeting Room of the Warren Green Building, 10 Hotel Street, Warrenton, Virginia. Members present were Mr. William Rider, Chairman; William Barr, Vice Chairman; Ms. Barbara Wilson, Secretary; Mrs. Peg Mailler, Mr Eugene Lofdahl, Dr. James Branscome and Mr. John Meadows. Also present were Mrs. Carolyn G. Bowen, Zoning Administrator; Mr. Paul McCulla, County Attorney; Mr. Don Margraf, Assistant Zoning Administrator, and Mrs. Beverly Pullen, Zoning Office Technician.

MINUTES

On the motion made by Mr. Lofdahl and seconded by Mr. Meadows it was moved to correct Page 9, as well as several typos in the minutes of the August 5, 1999 hearing.

The motion carried unanimously.

It was moved to approve the minutes of the September 2, 1999 hearing as submitted.

LETTERS OF NOTIFICATIONS

PUBLIC NOTICE Mrs. Bowen stated that to the best of her knowledge, the cases before the Board of Zoning Appeals for a public hearing have been properly advertised, posted, and letters of notification sent to adjoining property owners.

APPEAL #44303

SALAHY FAMILY LIMITED PARTNERSHIP (OWNER)

Continued from the August and September meetings. The owners have filed an appeal to certain determinations made by the Zoning Administrator in a letter dated May 26, 1999. The owners are appealing decisions regarding an open house held on May 29, 1999, the number of persons that may attend an open house, the holding of an open house and a Class C event at the same date and time, and what constitutes the tasting or sampling of wine for purpose of using a farm structure under the Zoning Ordinance. The subject property is identified as PIN #5998-87-0439-000, located at 14141 Hume Road (State Route 635) near Hume, Virginia, containing approximately 99.72 acres and is zoned RA (Rural Agriculture) in Marshall District.

Mrs. Bowen stated that the appeal was continued from the August and September meetings and is before the BZA today for a vote.

Mr. Rider asked the Board members for a vote to go into a Closed Meeting.

On the motion made by Ms. Wilson and seconded by Mr. Lofdahl and pursuant to §2.1-344 (a)(7) of the Code of Virginia, it was moved to go into Closed Meeting for the purpose of consultation with legal counsel pertaining to specific legal matters requiring the provision of legal advice by counsel relating to Appeal #44303 Salahi Family Limited Partnership and Appeal #44428 Lindy Hart and others.

The motion carried unanimously.

The Fauquier County Board of Zoning Appeals, having adjourned into Closed Meeting this day for the purposes stated in the resolution authorizing such Session, does hereby certify that to the best of each member's knowledge (I) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act, and (II) only such public business matters as were identified in the motion by which the Closed Meeting was convened, were heard, discussed or considered in the Closed Meeting.

This certification shall be recorded in the minutes of the Board of Zoning Appeals on motion of Ms. Barbara Wilson, seconded by Mr. Lofdahl.

AYES: Dr. Branscome, Mr. Barr, Mr. Rider, Ms. Wilson, Mrs. Mailler, Mr. Lofdahl and Mr. Meadows.

NAYS: None

ABSTENTION: None

ABSENT: None

Mr. Rider asked Mrs. Bowen if she had read the Salahi Family Partnership appeal and Mrs. Bowen responded that she had.

Mr. Rider stated that this appeal had been before the Board for some time and a decision needed to be made regarding the appeal.

Mr. Lofdahl read the following resolution:

**A RESOLUTION AFFIRMING THE DECISIONS OF THE FAUQUIER COUNTY ZONING
ADMINISTRATOR IN APPEAL #44303 BY THE SALAHİ FAMILY LIMITED
PARTNERSHIP**

WHEREAS, Appellant, Salahi Family Limited Partnership, has appealed the following decisions of the Fauquier County Zoning Administrator:

- a. That the "Open House" held by appellant on May 29, 1999 was a Class C Event.

- b. That as a Class C Event the attendance for the May 29th “Open House” must be limited to no more than 250 persons.
- c. That under certain circumstances an “Open House” and a Class C Event may not be held at the same date and time, which circumstances must be made by the Zoning Administrator on a case by case basis; and
- d. That the sale of more than a “taste” or “sample” wine for on-site consumption constitutes the operation of a restaurant or eating establishment not permitted in the Rural Agricultural Zoning District and for which the Appellant has no permit; and

WHEREAS, the Board of Zoning Appeals has conducted appropriate proceedings on the said appeals, and has determined that the decisions of the Zoning Administrator should be affirmed; now, therefore, be it

RESOLVED this 7th day of October, 1999 by the Fauquier County Board of Zoning Appeals That after due notice and hearing as required by law and based upon both the written and verbal record before it in this appeal, the Board of Zoning Appeals does hereby AFFIRM the decisions appealed from.

On the motion made by Mr. Meadows and seconded by Mr. Barr it was moved to adopt the above read resolution.

The motion carried unanimously.

APPEAL #44428

LINDY HART, KEVIN AND JENNIFER HANDFORD, ET ALS (APPELLANTS)

Continued from the August and September meetings. Appellants have filed an appeal to a determination made by the Zoning Administrator, dated May 26, 1999. The appeal is filed with regard to the Salahi Family Limited Partnership’s property, The Oasis Winery, located on Hume Road, Marshall District. The appellants have appealed a Zoning Administrator’s determination that wine tastings are permitted by right as part of an agricultural use, and that depending upon circumstances it may be permissible to hold an event at the winery, not governed by special exception approval.

Mrs. Bowen stated that this appeal also was continued from the August and September meetings.

Mr. Rider asked the Board members for their decision regarding this appeal.

Mr. Meadows read the following resolution:

A RESOLUTION AFFIRMING THE DECISIONS OF THE FAUQUIER COUNTY ZONING
ADMINISTRATOR IN APPEAL #44428 BY LINDY HART, KEVIN AND JENNIFER
HANDFORD, ET ALS

WHEREAS, Appellants, Lindy Hart, Kevin and Jennifer Handford, Jim and Penny Conaway, David and Lesley Arnold, Bill and Joyce Duvall, Ted, Lorraine and Kristen Kesting, Harold and Sarah Young, Jim and Brenda Moorman, Jerry and Linda Stern, Peggy Clark, David and Cynthia Willson, and Craig and Marylou Spottswood have appealed the following decisions of the Fauquier County Zoning Administrator:

- a. That the tasting and sampling of wine produced by the winery is an agricultural use permitted by right in the Rural Agricultural Zoning District.
- b. That Oasis Winery may be open to the general public for tours, visits and other by right activities, and hold a Class C Event or other properly authorized special exception or special permitted event at the same time; and

WHEREAS, the Board of Zoning Appeals has conducted appropriate proceedings on the said appeals, and has determined that the decisions of the Zoning Administrator should be affirmed; now, therefore, be it

RESOLVED this 7th day of October, 1999 by the Fauquier County Board of Zoning Appeals That after due notice and hearing as required by law and based upon both the written and verbal record before it in this appeal, the Board of Zoning Appeals does hereby AFFIRM the decisions appealed from.

On the motion made by Mrs. Mailler and seconded by Mr. Barr it was moved to adopt the above read resolution.

The motion carried unanimously.

VARIANCE #44692

ANTHONY EDWARD BALOGH (OWNER)

Owner is requesting a variance to the side yard to allow the construction of an addition. The addition would be located 21 feet from a side yard, wherein the Zoning Ordinance requires 25 feet. The subject property is located at 4317 South Starcrest Drive, and is identified as PIN #7915-41-7855-000, containing 1.14 acres, is zoned Residential-1 (R-1), in Cedar Run District.

Mr. Margraf reviewed the staff report and stated that a site visit was conducted earlier. He also stated that the proposed addition would consist of a two-car garage, family room and a bathroom. He further stated that the property does not have an unusual size or shape, and does not vary in elevation. He indicated that the septic tank and drainfield are located approximately twenty feet from the rear portion of the dwelling. The Fauquier County Health Department and Virginia Department of Transportation have no objection to this approval.

Mr. Balogh was present in support of his request.

Mr. Rider stated to Mr. Balogh, that variances cannot be granted as a matter of convenience. He further asked Mr. Balogh if the location of the drainfield and septic tank, is the reason for not being able to locate the addition in the rear of the property.

Mr. Balogh stated that the drainfield is in the rear of the property.

Mr. Meadows asked Mr. Balogh for the distance between the rear of the house and the drainfield and the septic tank.

Mr. Balogh stated that he did not know the exact location, but would estimate approximately ten feet.

Mr. Rider stated that the fact that the drainfield and septic tank are located in the rear of the property would be of concern.

Ms. Wilson asked the reason that the addition needs to be 24 feet wide.

Mr. Balogh indicated that the addition would include a standard two-car garage.

Mrs. Mailler stated 20 feet would accommodate two cars.

Mr. Balogh stated that he could decrease the size of the garage.

Mr. Lofdahl asked Mr. Balogh for any specific reason that the garage needs to be of the proposed width.

Mr. Balogh stated that along with two cars, he would like to have his work bench in the garage, as well as storage of his children's bikes.

Ms. Wilson stated that maybe a little more depth in the garage would give the additional space and her concern is that the reasons for this proposed variance appear to be a matter of convenience.

Mr. Rider stated due to the location of the drainfield, septic tank and distribution box do not allow him to place the addition on the rear of the property.

Mr. Meadows reiterated to Mr. Balogh that the BZA cannot grant a variance as a matter of convenience.

Mr. Balogh stated that if changed the width of the addition to 20 feet wide and extended the length, he did not think it would look as nice, as may be close to the drainfield.

Mr. Rider asked if anyone wished to speak.

No one spoke.

On the motion made by Mr. Barr and seconded by Mr. Meadows it was moved to continue the hearing for 30 days to allow Mr. Balogh time to locate the drainfield, reserve area and septic tank on the property and the Board could re-visit the property.

The motion carried unanimously.

SPECIAL PERMIT #44717

JAMES C. AND DONNA L. NEALE (OWNERS)

Owners are requesting special permit approval to locate a professional office (real estate) within their home. Owners also wish to continue the operation of a repair garage. The owners also wish approval for a home occupation sign. The subject property is located at 12353 Morgansburg Road (State Route 653), and is identified as PIN #6897-74-7690-000, containing 5.69 acres, is zoned Rural Agriculture, in Lee District.

Mr. Margraf reviewed the staff report and stated that the applicants had received special permit approval on December 7, 1995 for a residential business/repair garage from the Board of Zoning Appeals for a period of two years. He stated that the applicant wishes to locate a professional office (real estate) within the dwelling and the residential business/repair garage would consist of the repair of marine motors and be operated from the existing detached garage. He further stated that the Fauquier County Health Department has no objection to his request provided that there are no additional employees of the professional office. Virginia Department of Transportation has recommended that the applicants apply for a commercial entrance permit and consult with them on applicable improvements to the entrance based on the number of anticipated vehicles trips.

Mrs. Neale was present in support of their request.

Mr. Rider asked if the operation of the repair business would be confined to the garage and if there would be any outside storage of materials or vehicles.

Mrs. Neale explained to the BZA that she is currently employed full-time, and the request for a professional office would be part-time only. She further explained that her son is the owner/operator of the marine repair business and holds a certification for this type of repair. She stated that he also works full-time elsewhere, and this business would mostly be to repair boats of family or friends. She indicated that he has only worked on 2-3 boats per year in the past.

Mr. Rider stated that he recalled with the previous permit, that screening was required of any outside storage.

Mrs. Neale stated that the property is tree-lined and that screening is not a problem.

Mrs. Bowen stated that to the best of her knowledge, the applicants have adhered to the conditions of the previous permit.

Mr. Lofdahl asked Mrs. Neale if the permit, that was granted in 1995, had been active during the past two years.

Mrs. Neale indicated that it had not been active.

Mr. Meadows asked Mrs. Bowen if this permit was a renewal or a new permit.

Mrs. Bowen stated that it is for a new permit, as the previous permit had expired.

Ms. Wilson asked Mrs. Neale where she would meet with her clients.

Mrs. Neale stated that she would be meeting clients at the Coldwell-Banker office in Manassas, and not at her property. She explained that the home office would be mostly for communicating with her clients.

Mr. Meadows asked Mrs. Neale if the requested sign of two square feet would be for both businesses.

Mrs. Neale stated that if a sign is put up, it would be for both businesses.

Mr. Rider asked if anyone wished to speak regarding this request.

No one spoke.

On the motion made by Mrs. Mailler and seconded by Mr. Meadows, it was moved to grant Special Permit #44717, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the Board's findings:

1. The proposed use will not adversely effect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The application does comply with the specific standards which apply to the use in question, namely:

5-1305 Additional Standards for Office, Professional (including clinics), Not More Than Six Persons Employed

1. Not more than six (6) persons may be engaged in the operation of the office, including part-time employees and/or professionals.

2. No retail or wholesale sales or storage conducted on the premises.
3. The building so used shall have the exterior appearance of a residential structure of a type allowed in the zoning district in which located.
4. There shall be no lighting of signs or parking areas on the premises in general in any manner not usual in a residential area.
5. Office hours shall be limited to the period between 8:30 A.M. and 8:00 P.M., Monday through Saturday. Offices may open at other times only for emergencies.
6. Off-street parking for the office shall be provided in accordance with the provisions of Article 7 in addition to that required for the dwelling units, unless the office hours are limited to the period between 9:00 A.M. and 4:00 P.M.
7. Such a use shall have direct access to a road designated as a major collector (or higher) in the Comprehensive Plan unless the Board of Zoning Appeals finds that the type and amount of traffic generated by the facility is such that it will not cause an undue impact on the neighbors or adversely affect safety of road usage. Such alternative access shall be to a road designated in the Comprehensive Plan no lower than rural minor collector or urban local.

and

5-205 Additional Standards for Auto Repair Garages

1. Must be conducted on the same lot as the proprietor of the business.
 2. All employees must reside on the lot and shall not exceed two.
 3. All work shall be accomplished and vehicles in excess of two shall be located in a completely screened area and shall not be in any required yard.
 4. A minimum of 2 acres shall be required.
 5. Limited to 4 vehicles.
5. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance:
- (a) The permit is granted for a period of three years.
 - (b) An identification sign is approved for up to two square feet.

The motion carried unanimously.

SPECIAL PERMIT #44760

**SAM G. SHIPP, JR. (OWNER)/GOLDEN OAK BUILDERS/CLIFTON SHULL
(CONTRACT OWNERS)**

Applicant/Contract Owner is requesting special permit approval to construct mini-storage warehouses on property located on Marsh Road (State Route 17), and is identified as PIN #7806-99-4126-000, containing 1.897 acres, is zoned Commercial-2, in Cedar Run District.

Mr. Margraf reviewed the staff report and stated that a site visit was conducted earlier. He stated that the applicant is proposing four mini-storage warehouses. He further stated a major site plan will be required for this request. He indicated that the Fauquier County Health Department has provided comments and they are attached to these minutes. He stated that Virginia Department of Transportation has recommended that the applicant apply for a commercial entrance permit and consult with their staff on applicable improvements to the entrance location.

Ms. Carol Schumacker, of Carson, Harris & Associates was present on behalf of the applicants. She stated that Mr. Shull would like to build mini-storage warehouses on this property. She indicated that her client felt this would be a economical benefit, as the nearest storage facility is in Opal or in Fredericksburg.

Mr. Meadows asked for the zoning of the property/dwelling to the left of U.S. Route 17.

Ms. Schumacker stated she thought the zoning was RA (Rural Agriculture).

Mr. Lofdahl stated that in his review of the proposed site plan there appears to be a good size drainfield, and asked about a well on the property.

Ms. Schumacker stated there probably would be a well, but a location has not yet been determined.

Mrs. Bowen asked if colors for the units have been addressed.

Ms. Schumacker stated that whatever meets with the standards for the County would be used.

Mr. Rider asked if site plan would be required.

Mrs. Bowen stated that a major site plan would be required and Commercial-2 zoning does allow for mini-storage warehousing units, other previous permits for mini-storage warehouses have been required to be of earth tone colors. She further stated that lighting, landscaping, and setbacks will all be addressed at site plan review.

Mr. Rider asked if anyone wished to speak regarding this request.

No one spoke.

On the motion made by Ms. Wilson and seconded by Mr. Meadows, it was moved to grant Special Permit #44760, after due notice and hearing, as required by Code of Virginia §15.2-2204 and Section 5-009 of the Fauquier County Code, based upon the Board's findings:

1. The proposed use will not adversely effect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.
4. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance: (Conditions including, but not limited to, those recited in Section 5-007 A-L of the Zoning Ordinance:
 - (1) Site plan approval as required.
 - (2) The mini-storage warehouse units shall be of earth tone colors.
 - (3) Lighting of the site, to include intensity and shielding, so as not to adversely affect adjacent or nearby property owners.

The motion carried unanimously.

ADJOURNMENT There being no further business before the Board, the meeting adjourned at
3:25 P.M.

William Rider, Chairman

Barbara Wilson, Secretary

Copies of all files and materials presented to the Board are attached to and become a part of these minutes. A tape recording of the meeting is on file for one year.

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